

# Exhibit C

# Exhibit 1

CAUSE NO. DC-20-19005

CYNTHIA STEVENS, INDIVIDUALLY	§	IN THE DISTRICT COURT
AND AS REPRESENTATIVE OF THE	§	
ESTATE OF WILLIAM STEVENS;	§	
VICTORIA STEVENS; PAIGE STEVENS;	§	
JOSEPH SCHWARZ; TAMMY	§	
SCHWARZ, INDIVIDUALLY AND AS	§	
NEXT FRIEND OF WJS, A MINOR;	§	
ASHLEY SCHWARZ; JUSTINE	§	
SCHWARZ; TREVOR SCHWARZ,	§	
AUSTIN SCHWARZ; CARLOS PEREZ;	§	
THERESE PEREZ, INDIVIDUALLY AND	§	
AS NEXT FRIEND OF BXP, A MINOR;	§	DALLAS COUNTY, TEXAS
ANTHONY NIEMIEC, AS	§	
REPRESENTATIVE OF THE ESTATES	§	
OF ANDREW NIEMIEC AND JENNIFER	§	
NIEMEIC; ANTHONY NIEMIEC, AS	§	
NEXT FRIEND OF NAN, A MINOR; AND,	§	
ALLISON NIEMIEC,	§	
	§	
Plaintiffs,	§	
	§	
VS.	§	
	§	
KIMBERLY-CLARK CORPORATION,	§	191st JUDICIAL DISTRICT
	§	
Defendant.		

**PLAINTIFFS' ORIGINAL PETITION**

COME NOW, CYNTHIA STEVENS, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF WILLIAM STEVENS; VICTORIA STEVENS; PAIGE STEVENS; JOSEPH SCHWARZ; TAMMY SCHWARZ, INDIVIDUALLY AND AS NEXT FRIEND OF WJS, A MINOR; ASHLEY SCHWARZ; JUSTINE SCHWARZ; TREVOR SCHWARZ, AUSTIN SCHWARZ; CARLOS PEREZ; THERESE PEREZ, INDIVIDUALLY, AND AS NEXT FRIEND OF BXP, A MINOR; ANTHONY NIEMIEC, AS REPRESENTATIVE OF THE ESTATES OF

ANDREW NIEMIEC AND JENNIFER NIEMIEC; ANTHONY NIEMIEC, AS NEXT FRIEND OF NAN, A MINOR; AND ALLISON NIEMIEC, Plaintiffs in the above-entitled and numbered cause of action, and file this their Plaintiffs' Original Petition complaining of KIMBERLY-CLARK CORPORATION, Defendant, and would respectfully show the Court as follows:

**1.00 LEVEL OF DISCOVERY CONTROL PLAN**

1.01 Discovery is intended to be conducted under Level 3 of Rule 190.1 of the Texas Rules of Civil Procedure.

**2.00 PARTIES**

2.01 Cynthia Stevens is a natural person and the Widow of William Stevens. Plaintiff is a resident of Salem, Kenosha County, Wisconsin. The last 3 digits of Plaintiff's Wisconsin driver's license are 204 and the last 3 digits of her Social Security number are 007.

2.02 Victoria Stevens is a natural person and the Daughter of William Stevens and Cynthia Stevens. Plaintiff is a resident of Salem, Kenosha County, Wisconsin. The last 3 digits of Plaintiff's Wisconsin driver's license are 309 and the last 3 digits of her Social Security number are 604.

2.03 Paige Stevens is a natural person and the Daughter of William Stevens and Cynthia Stevens. Plaintiff is a resident of Salem, Kenosha County, Wisconsin. The last 3 digits of Plaintiff's Wisconsin driver's license are 405 and the last 3 digits of her Social Security number are 152.

2.04 Joseph Schwarz is a natural person and a resident of Genoa City, Kenosha County, Wisconsin. The last 3 digits of Plaintiff's Wisconsin driver's license are 608 and the last 3 digits of his Social Security number are 279.

2.05 Tammy Schwarz is a natural person and the Mother of WJS, a Minor. Plaintiff is a resident of Genoa City, Kenosha County, Wisconsin. The last 3 digits of Plaintiff's Wisconsin driver's license are 206 and the last 3 digits of her Social Security number are 469.

2.06 WJS is a minor, a natural person, and the Son of Plaintiffs Joseph Schwarz and Tammy Schwarz. Plaintiff is a resident of Genoa City, Kenosha County, Wisconsin. The last 3 digits of Plaintiff's Social Security number are 504.

2.07 Ashley Schwarz is a natural person and the Daughter of Plaintiffs Joseph Schwarz and Tammy Schwarz. Plaintiff is a resident of Genoa City, Kenosha County, Wisconsin. The last 3 digits of Plaintiff's Wisconsin driver's license are 904 and the last 3 digits of her Social Security number are 209.

2.08 Justine Schwarz is a natural person and the Daughter of Plaintiffs Joseph Schwarz and Tammy Schwarz. Plaintiff is a resident of Genoa City, Kenosha County, Wisconsin. The last 3 digits of Plaintiff's Wisconsin driver's license are 708 and the last 3 digits of her Social Security number are 239.

2.09 Trevor Schwarz is a natural person and the Son of Plaintiffs Joseph Schwarz and Tammy Schwarz. Plaintiff is a resident of Genoa City, Kenosha County, Wisconsin. The last 3 digits of Plaintiff's Wisconsin driver's license are 308 and the last 3 digits of his Social Security number are 447.

2.10 Austin Schwarz is a natural person and the Son of Plaintiffs Joseph Schwarz and Tammy Schwarz. Plaintiff is a resident of Genoa City, Kenosha County, Wisconsin. The last 3 digits of Plaintiff's Wisconsin driver's license are 602 and the last 3 digits of his Social Security number are 110.

2.11 Carlos Perez is a natural person and a resident of Salem, Kenosha County, Wisconsin. The last 3 digits of Plaintiff's Wisconsin driver's license are 801 and the last 3 digits of his Social Security number are 387.

2.12 Therese Perez is a natural person and resident of Salem, Kenosha County, Wisconsin.

The last 3 digits of Plaintiff's Wisconsin driver's license are 800 and the last 3 digits of her Social Security number are 898.

2.13 BXP is a minor, a natural person, and the Son of Carlos Perez and Therese Perez. Plaintiff is a resident of Salem, Kenosha County, Wisconsin. The last 3 digits of Plaintiff's Social Security number are 404.

2.14 Anthony Niemiec is a natural person and the Brother of Andrew Niemiec. Plaintiff is a resident of Muskego, Waukesha County, Wisconsin. The last 3 digits of Plaintiff's Wisconsin driver's license are 905 and the last 3 digits of his Social Security number are 198.

2.15 NAN is a minor, a natural person, and the Daughter of Andrew Niemiec and Jennifer Niemiec. Plaintiff is a resident of Muskego, Waukesha County, Wisconsin. The last 3 digits of Plaintiff's Social Security number are 888.

2.16 Allison Niemiec is a natural person, and the Daughter of Andrew Niemiec and Jennifer Niemiec. Plaintiff is a resident of Muskego, Waukesha County, Wisconsin. The last 3 digits of Plaintiff's Wisconsin driver's license are 015 and the last 3 digits of her Social Security number are 033.

2.17 Defendant KIMBERLY-CLARK CORPORATION is a citizen of the state of Texas because its principal place of business and headquarters is located in Dallas, Texas. It may be served with process by serving its registered agent for service of process:

**CT Corporation System  
1999 Bryan Street, Suite 900  
Dallas, Texas 75201-3136**

### **3.00 JURISDICTION AND VENUE**

3.01 Plaintiffs prefer to have the jury determine the fair amount of compensation for Plaintiffs' damages, but Texas Rule of Civil Procedure 47 requires Plaintiffs to provide a statement

regarding the amount of monetary relief sought. Accordingly, Plaintiffs therefore state that they each seek monetary relief over \$1,000,000.00 in an amount to be determined by the jury.

3.02 Jurisdiction is proper in this Court pursuant to 28 USC § 1332 and 1441 because Defendant Kimberly-Clark Corporation's principal place of business and headquarters is in Dallas, Dallas County, Texas.

3.03 Pursuant to §15.002 of the Texas Civil Practice & Remedies Code, venue is proper in Dallas County as Defendant Kimberly-Clark Corporation's principal place of business and offices are located in Dallas, Dallas County, Texas. Furthermore, venue is proper in Dallas County as Defendant Kimberly Clark Corporation's negligent undertaking and negligent acts and/or omissions took place in Dallas, Dallas County, Texas.

#### **4.00 FACTUAL BACKGROUND**

4.01 On or about October 18, 2019, Cynthia Stevens, William Stevens, Joseph Schwarz, Tammy Schwarz, Carlos Perez, Therese Perez, Andrew Niemiec and Jennifer Niemiec were passengers in a minibus.

4.02 At approximately 8:00p.m., while traveling south on the North Inter-American Highway in Guanacaste, Liberia, Costa Rica, an 18-wheeler tractor trailer being driven in connection with the operations of Kimberly-Clark Corporation struck the mini-bus.

4.03 William Stevens, Andrew Niemiec and Jennifer Niemiec were killed as a result of the crash. Plaintiffs Joseph Schwarz, Tammy Schwarz, Carlos Perez, Therese Perez, and Cynthia Stevens suffered serious bodily injuries.

#### **5.00 CAUSES OF ACTION – NEGLIGENT UNDERTAKING**

5.01 Defendant Kimberly-Clark Corporation undertook to perform services that it knew or should have known were necessary for Plaintiffs' protection and Kimberly Clark failed to exercise

reasonable care in performing those services. Kimberly Clark's performance increased Plaintiffs' risk of harm.

#### **6.00 NEGLIGENCE**

6.01 At all times relevant to this incident, Defendant Kimberly-Clark Corporation, acting by and through its employees, agents, and/or vice principals, had a duty to act reasonably and prudently as the operator of a multinational personal care company. The Defendant breached this duty, by failing to exercise the ordinary care a reasonable and prudent multinational corporation would have done under the same or similar circumstances.

#### **7.00 CAUSATION**

7.01 The above described acts and/or omissions were singularly and severally the proximate cause of the occurrence in question and resulting injuries and damages sustained by Plaintiffs and Decedents.

#### **8.00 WRONGFUL DEATH DAMAGES OF CYNTHIA STEVENS, VICTORIA STEVENS, PAIGE STEVENS, MINOR NAN, AND ALLISON NIEMIEC**

8.01 The negligence of the Defendant proximately caused the injuries and subsequent death of William Stevens, Andrew Niemiec and Jennifer Niemiec. Plaintiff Cynthia Stevens is the wife of William Stevens and Plaintiffs Victoria Stevens and Paige Stevens are the natural children of William Stevens. Plaintiffs NAN, a minor, and Allison Niemiec are the natural children of Andrew Niemiec and Jennifer Niemiec.

8.02 Plaintiffs Cynthia Stevens, Victoria Stevens, Paige Stevens, NAN, a minor, and Allison Niemiec, assert all damages recoverable pursuant to the Texas Wrongful Death statute and survival actions, Tex. Civ. Prac. & Rem. Code § 71.001, *et seq.*



**9.00 DAMAGES TO PLAINTIFFS TAMMY SCHWARZ, WJS, ASHLEY SCHWARZ, JUSTINE SCHWARZ, TREVOR SCHWARZ and AUSTIN SCHWARZ; AND, TO THERESE PEREZ AND BXP**

9.01 As a proximate cause of the above described acts and/or omissions on the part of Defendant, by and through their vice principals, agents, employees and/or representatives, Plaintiffs Tammy Schwarz, WJS, Ashley Schwarz, Justine Schwarz, Trevor Schwarz, and Austin Schwarz have sustained damages and harm resulting from the injuries to Joseph Schwarz. Plaintiffs seek all damages to which they are entitled at law for personal, emotional, economic, and/or physical injuries sustained in the past as well as those damages they will continue to sustain in the future as a result of the occurrence in question.

9.02 As a proximate cause of the above described acts and/or omissions on the part of Defendant, by and through their vice principals, agents, employees and/or representatives, Plaintiffs Therese Perez and BXP have sustained damages and harm resulting from the injuries to Carlos Perez. Plaintiffs seek all damages to which they are entitled at law for personal, emotional, economic, and/or physical injuries sustained in the past as well as those damages they will continue to sustain in the future as a result of the occurrence in question.

**10.00 DAMAGES TO PLAINTIFFS CYNTHIA STEVENS, JOSEPH SCHWARZ, TAMMY SCHWARZ, CARLOS PEREZ and THERESE PEREZ**

10.01 As a proximate cause of the above described acts and/or omissions on the part of Defendant, Plaintiffs Cynthia Stevens, Joseph Schwarz, Tammy Schwarz, Carlos Perez, and Therese Perez have sustained damages and harm. Plaintiffs seek all damages to which they are entitled at law for personal, emotional, economic, and physical injuries sustained in the past as well as those damages they will continue to sustain in the future as a result of the crash in question, including any and all bystander claims.

**11.00 JURY TRIAL**

Plaintiffs respectfully request a jury trial in the above entitled and numbered cause. A jury fee is being tendered to the Clerk.

**12.00 PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that the Defendant be cited to appear and answer herein; and that upon final hearing hereof, Plaintiffs receive judgment from the Defendant for:

- 12.01 Damages as plead;
- 12.02 Costs of court;
- 12.03 Prejudgment interest at the highest legal rate allowed by law;
- 12.04 Interest on the judgment at the highest legal rate from the date of judgment until collected; and
- 12.05 Any and all such further relief in law and equity to which Plaintiffs may show themselves justly entitled.

Respectfully submitted,

**CRAIN BROGDON ROGERS L.L.P.**

/s/ Robert D. Crain

**ROBERT D. CRAIN**

State Bar No. 00790525

**QUENTIN BROGDON**

State Bar No. 03054200

**SARAH L. ROGERS**

State Bar No. 24046239

**JOHN J. SPILLANE**

State Bar No. 00788449

3400 Carlisle Street, Suite 200

Dallas, Texas 75204

Phone: (214) 522-9404

Fax: (214) 613-5101

Email: [rcrain@cbrlawfirm.com](mailto:rcrain@cbrlawfirm.com)

Email: [Qbrogdon@cbrlawfirm.com](mailto:Qbrogdon@cbrlawfirm.com)

Email: [rogers@cbrlawfirm.com](mailto:rogers@cbrlawfirm.com)

Email: [jspillane@cbrlawfirm.com](mailto:jspillane@cbrlawfirm.com)

**COUNSEL FOR PLAINTIFFS CYNTHIA STEVENS, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF WILLIAM STEVENS; VICTORIA STEVENS; PAIGE STEVENS; JOSEPH SCHWARZ; TAMMY SCHWARZ, INDIVIDUALLY AND AS NEXT FRIEND OF WJS, A MINOR; ASHLEY SCHWARZ; JUSTINE SCHWARZ; TREVOR SCHWARZ, AUSTIN SCHWARZ; CARLOS PEREZ; and THERESE PEREZ, INDIVIDUALLY, AND AS NEXT FRIEND OF BXP, A MINOR**

and,

**KRUTCH LINDELL BINGHAM JONES, PS**

*/s/ Thomas S. Bingham*

**THOMAS W. BINGHAM**

*pro hac vice pending*

WA State Bar No. 7575

**JAMES T. ANDERSON**

*pro hac vice pending*

WA State Bar No. 40494

**JAMES N. BINGHAM**

*pro hac vice pending*

WA State Bar No. 46325

3316 Fuhrman Avenue E., Suite 250

Seattle, WA 98102

Phone: (206) 892-3100

Email: [twb@krutchlindell.com](mailto:twb@krutchlindell.com)

Email: [jta@krutchlindell.com](mailto:jta@krutchlindell.com)

Email: [jnb@krutchlindell.com](mailto:jnb@krutchlindell.com)

AND

**SLACK DAVIS SANGER**

*/s/ John S. Jose*

---

**JOHN S. JOSE**

State Bar No. 11027550

**DILLON VAUGHN**

State Bar No. 24121179

100 Lexington Street, Suite 70

Fort Worth, TX 76102

Phone: (817) 288-8988

Email: [jjose@slackdavis.com](mailto:jjose@slackdavis.com)

Email: [dvaughn@slackdavis.com](mailto:dvaughn@slackdavis.com)

**ATTORNEYS FOR PLAINTIFFS**

**ANTHONY NIEMIEC, AS  
REPRESENTATIVE OF THE ESTATES  
OF ANDREW NIEMIEC AND JENNIFER  
NIEMEIC; ANTHONY NIEMIEC, AS  
NEXT FRIEND OF NAN, A MINOR;  
AND, ALLISON NIEMIEC**

# Exhibit 2



FELICIA PITRE  
DALLAS COUNTY DISTRICT CLERK

NINA MOUNTIQUE  
CHIEF DEPUTY

**CAUSE NO. DC-20-19005**

CYNTHIA STEVENS, et al

VS.

KIMBERLY CLARK CORPORATION

191st District Court

**ENTER DEMAND FOR JURY**

JURY FEE PAID BY: PLAINTIFFS

FEE PAID: 40